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WAKE COUNTY 2012 DEC -7 PM 3:150 THE GENERAL COURTS OF JUSTICE SUPERIOR COURT DIVISION NORTH CAROLINA WAKE COUNTY. C.S.C.	
THE NORTH CAROLINA STATE BAR, PETITIONER,) :;))
v.) CONSENT ORDER OF) PRELIMINARY INJUNCTION
MICHAEL C. CASEY,	,)

THIS MATTER came on to be heard and was heard by the undersigned Judge of Superior Court of Wake County on motion of Petitioner, the North Carolina State Bar. Petitioner was represented by Katherine E. Jean. Respondent, Michael C. Casey, was represented by Deanna S. Brocker. Based upon the consent of the parties, the Court makes the following:

FINDINGS OF FACT

- 1. Michael C. Casey was licensed to practice law in North Carolina on August 29, 1998.
- 2. As of the date of this petition, Casey's last known address of record on file with the North Carolina State Bar is PO Box 28, Nags Head, North Carolina 27959.
- 3. The State Bar's preliminary investigation shows as follows: In January 2012, Casey notified the State Bar that during a 24 hour period in December 2011, an unknown third party breached the computer security for Casey's trust account and wired \$319,000 out of Casey's trust account without Casey's knowledge or authorization. On December 3, 2012, Casey represented to the State Bar: (a) that he does not have the financial means to replenish the stolen funds; (b) that since the thefts occurred, he has continued to receive entrusted funds and has continued to deposit those entrusted funds into his trust account; and (c) that he has utilized entrusted funds deposited into his trust account since December 2011 to satisfy the claims of other clients whose funds were part of the funds stolen by the unknown third party.
- 4. The facts represented to the State Bar by Casey reflect that funds held in trust by Casey have not been handled in accordance with the requirements of Rule of Professional Conduct 1-15.1, 1-15.2 and 1-15.3.

- 5. Casey desires to cooperate with the State Bar.
- 6. A need for prompt action exists to ensure that entrusted funds are not mishandled in the future.

Based upon the foregoing Findings of Fact, the Court makes the following

CONCLUSIONS OF LAW

- 1. Prompt action, pursuant to N.C. Gen. Stat. 84-28(f), is necessary to preserve the status quo while the State Bar conducts an analysis of Casey's trust and other bank accounts.
- 2. Casey should be enjoined from accepting any further funds from or on behalf of clients or other individuals in a fiduciary capacity, from writing checks against any account in which client or fiduciary funds have been deposited, and from directing or permitting any employee or agent to withdraw funds from and/or to draw any checks or other instruments upon any account in which client or fiduciary funds have been deposited until and unless expressly permitted by subsequent orders of the Court.
- 3. To assist the State Bar's analysis of his trust and other bank accounts, Casey should provide the State Bar with records of all accounts in which client or fiduciary funds have been deposited and with all client files requested by the State Bar as set forth below.
- 4. To assist the State Bar's analysis of his trust accounts, Casey should provide the State Bar with the reconciliation reports required to be prepared and maintained pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct.

THEREFORE, IT IS HEREBY ORDERED:

- 1. Casey is enjoined from accepting or receiving any funds from clients or third parties in a fiduciary capacity, from withdrawing any funds from and/or drawing any checks or other instruments against any account in which client or fiduciary funds have been deposited and from directing or permitting any employee or agent to withdraw funds from and/or to draw any checks or other instruments upon any account in which client or fiduciary funds have been deposited until and unless expressly permitted by subsequent orders of the Court.
- 2. Casey or any other person having custody or control of records relating to any account into which client or fiduciary funds have been deposited shall immediately produce to the North Carolina State Bar for inspection and copying all of Casey's financial records relating to any account into which client or fiduciary funds have been deposited, including, but not limited to bank statements, canceled checks, deposit slips, client ledger cards, check stubs, debit memos and any other records relating to the receipt and disbursement of client and/or fiduciary funds.

- 3. Casey or any other person having custody or control over records relating to persons or entities for whom Casey has provided legal services shall produce to the North Carolina State Bar for inspection and copying all records and documents relating to each such person or entity including but not limited to client files, billing statements, memoranda and receipts. Documents relating to current clients shall be produced within 24 hours of demand by the State Bar. Documents relating to closed client files shall be produced within 3 days of demand by the State Bar.
- 4. If Casey does not have possession of the minimum records required to be maintained regarding trust and fiduciary funds pursuant to Rule 1.15-3 of the Rules of Professional Conduct and/or does not have possession of personal bank account records for any personal accounts into which client or fiduciary funds were deposited, he shall direct the bank(s) where his bank account(s) are maintained, within 10 days of the date of this order, to copy and transmit any such missing records directly to the North Carolina State Bar at Casey's expense.
- 5. Casey shall immediately produce to the North Carolina State Bar at its Raleigh, North Carolina location the monthly and quarterly reconciliation reports for any and all trust accounts that he is required to produce and maintain pursuant to Rule 1.15-3(d) of the Rules of Professional Conduct. If Casey has not prepared such reports as required by Rule 1.15-3(d), he is hereby ordered to conduct the monthly and quarterly reconciliations required by Rule 1.15-3(d) of the Rules of Professional Conduct for the time period required under the Rules of Professional Conduct, or a lesser period if so specified by the State Bar, and produce the reports to the State Bar within two weeks of the date of this order or by the deadline set by the State Bar, whichever is later.
- 6. Casey shall not serve as a trustee, escrow agent, personal representative, executor, attorney-in-fact or in any other fiduciary capacity until and unless he is permitted to do so by order of this Court. Notwithstanding the preceding sentence, Casey is hereby authorized to continue to serve as co-receiver in *Larry E. Jennings, et al v. Long John Silver LLC*, Dare County file no. 12-SP-245, in which his co-receiver is W. Jay Wheeless. In the *Jennings* receivership, Casey may perform all functions of his capacity as co-receiver other than receiving or disbursing entrusted funds. Casey shall not receive or disburse any entrusted funds in connection with the *Jennings* receivership until and unless permitted to do so by further order of this Court.
- 7. This Consent Order of Preliminary Injunction shall remain in effect until further order of this Court.

THIS the 7 day of Second 2012.

Superior Court Judge Presiding

WE CONSENT:

Michael C. Casey Respondent

Deanna S. Brocker

Attorney for Respondent

Katherine E. Jean Attorney for Petitioner The North Carolina State Bar

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Michael C. Casey Respondent

Deanna S. Brocker

Attorney for Respondent

Katherine E. Jean

Attorney for Petitioner

The North Carolina State Bar